IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 56 of 2004 (MB)

1. Rashid Khan S/o Sri Sadiq,
   R/o Village Masjid Pelu Rajdwara,
   Rampur, District Rampur.
2. Bhagat Singh S/o Sri Gopal Das,
   R/o Sastari Nagar, Rampur.
3. Jasvant Singh S/o Sri Dala Ram,
   R/o 15 Adarsh Colony Rampur
4. Smt. Mahendra Kaur W/o Sri Shravan Singh,
   R/o Lohari Swar, Rampur.
5. Mustaq Hussain Khan S/o Sri Alataf Hussain Khan,
   R/o Ghar Ghiljiyan, Rampur.
6. Vajeer Sah Khan S/o Sri Habib Sah Khan,
   R/o Shahabad Road, Rampur.
7. Smt. Subayawati Bhatia W/o Sri R. Bhatia,
   R/o Rajdwara, Rampur.
8. Wajid Khan S/o Sri Jarif Khan,
   R/o Akara Surahab Khan, Rampur.
9. Smt. Talab Parveen W/o Sri Irfan Khan,
   R/o Mohalla Kutkueia, Rampur.
10. M/s New Jai Bharat Hamid Motors,
    through its Manager Hamid Singh,
    S/o Bishan Singh,
    R/o Hamid Gate, Rampur. ……. Petitioners

Versus

1. State of Uttaranchal through Secretary,
   Uttaranchal Govt., Dehradun.
2. State of U.P. through Secretary,
   Civil Secretariat, Lucknow.
3. Regional Transport Officer,
   Kathgodam, District Nainital.
4. Regional Transport Officer,
   Rampur, U.P.
5. Senior Superintendent of Police,
   Udham Singh Nagar / Nainital. ……. Respondents

Mr. S.K. Mandal, Advocate for the petitioners.
Mr. B.D. Kandpal, Standing Counsel for respondents Nos. 1, 3 & 5.
None for respondents Nos. 2 & 4.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Prafulla C. Pant, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. S.K. Mandal, Advocate for the petitioners.
Mr. B.D. Kandpal, Standing Counsel for respondents Nos. 1, 3 & 5.

None for respondents Nos. 2 & 4.
They are heard.

2. The petitioners have filed this writ petition for the following reliefs:

> "A) Issue a writ order or direction in the nature of mandamus directing and commanding the respondent not to charge the double tax and the buses may not be stop on the basis of non payment of additional taxes for the route fell with in the territory of the State of Uttaranchal and permitted to operate the buses without charge the double taxes.
> B) Issue, a Suitable writ order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the Case.
> D) Awards the costs of the petition."

3. The petitioners, in substance, are challenging the recovery of additional tax by the State of Uttaranchal.

4. Respondents Nos. 1, 3 & 5 have filed their counter affidavit justifying the recovery of additional tax by the State of Uttaranchal on the strength of the judgment of a Division Bench of the High Court of Uttaranchal dated 05.09.2003 passed in Writ Petitions Nos. 454 of 2003 (M/B) and 781 of 2003 (M/B).

5. In the judgment passed in Writ Petition Nos. 454 of 2003 (M/B) and 781 of 2003 (M/B), it has been held in para 8 as under:

> ".....Hence all permit holder who have paid additional tax to Regional Transport Authority, U.P. before 01.08.2003, will not be asked to pay the said tax twice over by State of Uttaranchal. However, in view of Section 6(3) of Uttaranchal Motor Vehicles Tax Reforms Act, 2003 State of Uttaranchal will now be entitled to levy and recover additional tax after 01.08.2003....."

6. It is not in dispute that the additional tax sought to be recovered by the State of Uttaranchal from the petitioners is for the period after 01.08.2003 and in respect of that part of the route, which falls within the territory of the State of Uttaranchal.

7. In this view of the matter, we do not find any illegality in the recovery of additional tax by the State of Uttaranchal from the petitioners.

8. The writ petition, therefore, is liable to be dismissed and is hereby dismissed.

(Prafulla C. Pant, J) 25.07.2006

(Rajeev Gupta, C.J.) 25.07.2006

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